



**AGENDA TITLE:** Adopt Resolution of Vacation of Surplus Portion of Street Easement on

Lodi Avenue Adjacent to Parcel Located at 230 South Cherokee Lane (Jimboy's Tacos Building) and Authorizing City Manager to Execute Termination Agreement

**MEETING DATE:** December 15,2010

PREPARED BY: Public Works Director

**RECOMMENDED ACTION:** Adopt resolution of vacation of surplus portion of street easement on

Lodi Avenue adjacent to parcel located at 230 South Cherokee Lane (Jimboy's Tacos Building) and authorizing City Manager to execute

Termination Agreement.

**BACKGROUND INFORMATION:** The southerly portion of land at 230 South Cherokee Lane was

dedicated to the City of Lodi by a grant deed from Carmelo Teresi and Pamela Teresi recorded on April 23, 1987 at the San Joaquin

County Recorder's office (Exhibit A). The dedication was in

anticipation of widening Lodi Avenue east of Cherokee Lane into a four-lane arterial to serve the industrial development east of State Route 99. The City also executed an agreement with the property owners to reconstruct the existing building which is located partially inside the dedicated property (Exhibit B).

Since that time, the industrial development east of Cherokee Lane did not generate the traffic volume anticipated, and the 2010 General Plan Update did not identify the need to widen Lodi Avenue east of Cherokee Lane to four lanes. The City also recently completed the Lodi Avenue reconstruction project from Union Pacific Railroad to 300 feet east of Cherokee Lane with no provisions to widen Lodi Avenue east of Cherokee Lane into a four-lane arterial. The Lodi Avenue project, however, did widen the pavement along the subject property to remove the existing 12-foot offset to provide a smooth pavement transition. Staff feels that Lodi Avenue east of Cherokee Lane can remain a two-lane collector and maintain an acceptable service level for the foreseeable future.

The current property owner, Linda S. Bowman, has requested the City vacate the remaining portion of the dedicated property (Exhibit C) so that the property can be used and developed without the restrictions stated in the recorded agreement. The City would retain the street right-of-way from the back of the sidewalk to the street pavement. All existing public utility easements will remain. Pacific Gas and Electric Company, Comcast, AT&T, and the City of Lodi Electric Utility Department and the Streets and Water/Wastewater Divisions have approved the vacation of street right-of-way without any further comments or conditions. With the vacation of the surplus portion of the street easement, the building originally addressed in the 1987 agreement will no longer be within the street easement and the agreement is no longer necessary.

Staff recommends that the right-of-way vacation be approved subject to the termination of the recorded agreement between the City of Lodi and Carmelo Teresi and Pamela Teresi dated April 14, 1987, and that City Council authorize the City Manager to execute the Termination Agreement.

APPROVED: Konradt Bartlam, City Manager

Adopt Resolution of Vacation of Surplus Portion of Street Easement on Lodi Avenue Adjacent to Parcel Located at 230 South Cherokee Lane (Jimboy's Tacos Building) and Authorizing City Manager to Execute Termination Agreement December 15,2010 Page 2

**FISCAL IMPACT:** 

Not applicable.

**FUNDING AVAILABLE:** 

Not applicable.

F. Wally Sandelin Public Works Director

Prepared by Lyman Chang, Senior Civil Engineer

Attachments

cc: City Attorney
Senior Engineering Technician Wiman
Senior Civil Engineer Chang
Thomas Coleman

87035717

87035717

SAN JOAQUIN COUNTY RECORDER'S OFFICE YVONNE I. UDALL

Exhibit A

87 APR 23 AM 11: 42

RECORDED AT REQUEST OF

Lesone

FEF

EXEMPT FROM FEE

STATEMENT AND RECORDED DOCUMENT TO

WHEN RECORDED MAIL TAX

CITY CLERK
CITY HALL
LODI, CALIFORNIA 95240

SPACE ABOVE THIS LINE FOR RECORDER'S USE

#### DEED

2241

Carmelo Teresi and Pamela Teresa

do \_\_\_\_ hereby GRANT to the CITY OF LODI, a municipal corporation of the State of California, all that real property situate in the City of Lodi, County of San Joaquin, State of California, described as follows:

A portion of the Southwest Quarter of Section 6, T3N, R7E, MDBM being more particularly described as follows:

Commencing at the southwest corner of said section, thence \$ 87016'30"E 260.15 feet along the South line of said section,

1

thence N  $2^{0}$ 09'40"W 22.58 feet to the TRUE POINT OF BEGINNING

thence continuing N  $2^0$ 09'40"W 21.78 feet to the southwest corner of Parcel "A" as recorded Aug. 8, 1977 in Book 4 of Parcel Maps at Page 190, San Joaquin County Records, and to a point on a curve having a radial of N  $2^0$ 34'38"W

thence along a curve to right having a radius 1460.00 feet, a chord bearing S  $89^{\circ}51'01"W$ , an arc of  $2^{\circ}17'59"$ , and an arc length of 58.60 feet

thence N 89<sup>0</sup>43'21"W 122.75 feet

thence N 45058'11"W 27.45 feet, to the east line of Cherokee Lane

thence S  $2^{0}13$ 'E 12.10 feet along said east line of Cherokee Lane

thence along a curve to the left having a radius of 20.00 feet, a chord bearing S  $44^{\circ}44'45''E$ , an arc of  $85^{\circ}03'30''$ , and an arc length of 29.69 feet

thence S 87016'30"E 182.59 feet to the TRUE POINT OF BEGINNING

Dated: <u>**13-81**</u>

STATE OF CALIFORNIA COUNTY OF \_\_\_\_\_

SS

before me, the under-

signed, a Notary Public in and for said State, personally appeared

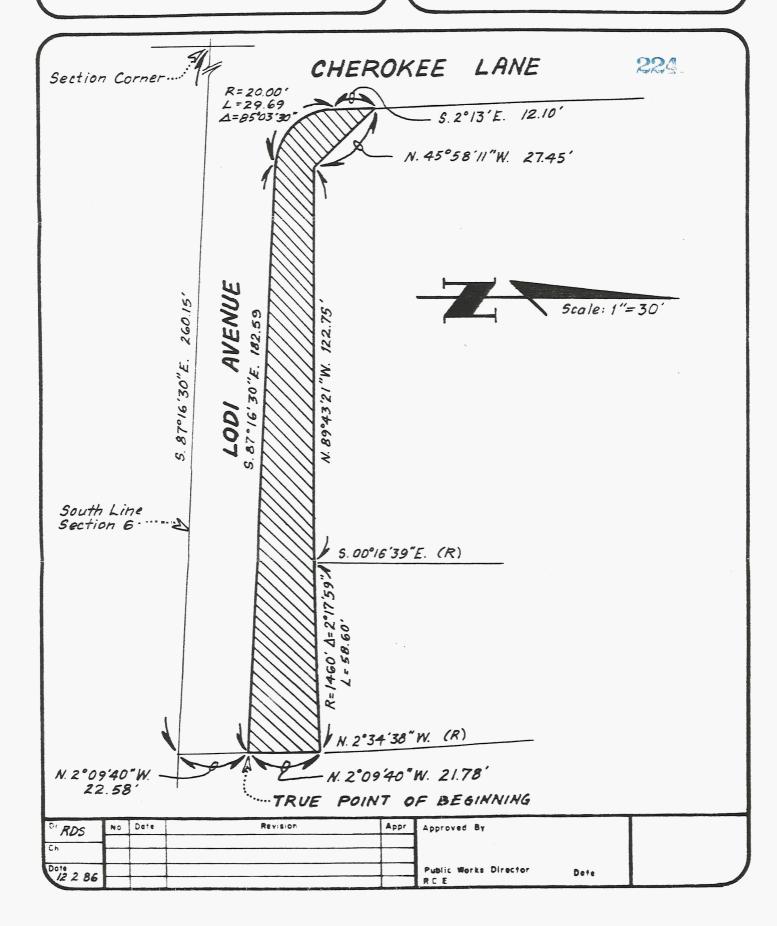


# CITY OF LODI

PUBLIC WORKS DEPARTMENT

# GRANT DEED 224

230 S. CHEROKEE LANE



## CITY OF LODI

CITY HALL, 221 W. PINE ST.
CALL BOX 3006
LODI, CALIFORNIA 95241-1910

87035718

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SAN JOAQUIN COUNTY Deed 2241
RECORDER'S OFFICE CONTRACT 2845
YVONNE I. UDAI I

87 APR 23 AMII: 43 ...
RECORDED AT RECURST OF CITY SHOWN

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AGREEMENT

This Agreement entered into the Agreement entered into this Agreement entered into thi

#### WITNESSETH

Owner owns the property located at 230 South Cherokee Lane, Lodi, California, described as a portion of Lot 5, Lodi Trotting Park, as recorded Feb. 10, 1891 in Book of Maps, Vol. 2, page 70, San Joaquin County Records.

City and Owner agree as follows:

- 1. Owner is dedicating by separate instrument the necessary land for the future widening of Lodi Avenue.
- 2. City acknowledges and agrees that it is City's responsibility to modify the buildings presently in the newly dedicated right-of-way at such time that City desires to widen Lodi Avenue and agrees to modify the buildings at City's cost at such time as City deems it necessary to so widen said street in such a manner that the dining capacity is not decreased, a drive-through window can still be accommodated, and the number of parking spaces will not be less than ten (10).
- 3. Owner acknowledges that in the event the buildings presently in the newly dedicated right-of-way are intentionally demolished or damaged or partially destroyed by fire or any other calamity or act of God to the extent of more than fifty percent of its reasonable value at that time, no repairs or reconstruction shall be made, unless every portion of such building is made to conform to all regulations of the district in which it is located.

IN WITNESS WHEREOF, the parties have executed this Agreement this day ana year hereinabove written.

CITY OF LODI, A Municipal Corporation

By:

Thos. a. Sleson
HOMAS A PETERSON, City Manager

Attest

ALICE M. REINCHE, City Sterk

CARMELO TERESI, Owner

PAMELA TERESI, Owner

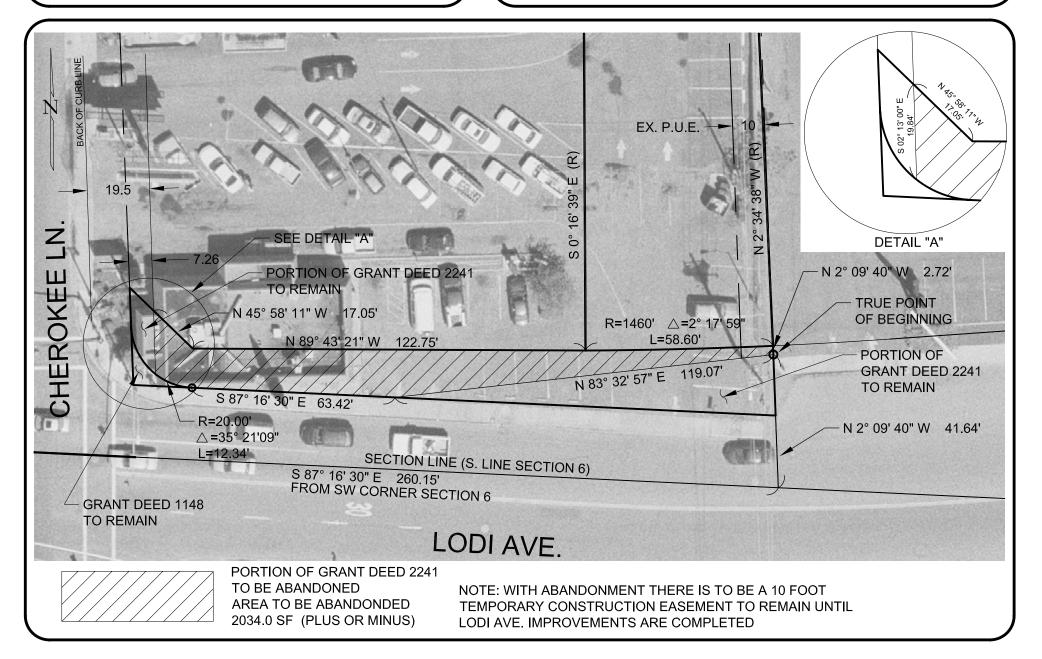
OF LODI, COMMINION OF LODI, COMM



# CITY OF LODI

PUBLIC WORKS DEPARTMENT

# GRANT DEED 2241 PARTIAL ABANDONMENT 230 S. CHEROKEE LN.



#### WHEN RECORDED MAIL TO:

City Clerk City of Lodi P.O. Box 3006 Lodi, California 95241

TERMINATION AGREEMENT
This Agreement entered into this day of, 2010, between the CITY OF LODI, a municipal corporation, hereinafter called "City" and LINDA S. BOWMAN, hereinafter called "Owner."
W TNESSETH
Owner owns the property loca ed at 230 South Cherokee Lane, Lodi, California, described as a portion of Lot 5, Lodi Trotting Park, as recorded February 10, 1891 in Book of Maps, Vol. 2, page 70, San Joaquin County Records ("Property").
City and Owners' predecessors in interest, Carmelo and Pamela Teresi entered into an Agreement dated April 14, 1987 providing for the dedication of a portion of the property to City, and requiring the City to reconstruct the existing improvements if necessitated by the dedication.
Subsequent to the execution of the April 14, 1987 Agreement the City determined it did not require as much right-of-way as initially contemplated, (excess right-of-way) obviating the need to destroy any portion of the building on site. (See Exhibit reflecting initial dedication and Exhibit reflecting actual need).
City and Owner agree as follows:
1. City has abandoned the excess Right-of-way as indicated on Exhibit, and will execute a deed transferring the excess right-of-way back to Owner at no cost.
2. City and Owner hereby terminate the obligations of paragraphs 2 and 3 of the April 14, 1987 Agreement.
IN WITNESS WHEREOF, the parties have executed this Agreement this day and year hereinabove written.
CITY OF LODI, a municipal corporation OWNER
KONRADT BARTLAM City Manager  LINDA S. BOWMAN
Attest:
RANDI JOHL, City Clerk

#### RESOLUTION NO. 2010-215

A RESOLUTION OF THE LODI CITY COUNCIL
VACATING A SURPLUS PORTION OF LODI AVENUE
LYING ADJACENT TO PARCEL LOCATED AT
230 SOUTH CHEROKEE LANE AND AUTHORIZING
CITY MANAGER TO EXECUTE TERMINATION
AGREEMENT

WHEREAS, Linda S. Bowman, the owner of 230 South Cherokee Lane (the "Property"), has requested the vacation of a portion of a street right-of-way dedicated to the City of Lodi on April 23, 1987, and more particularly described in Attachment 1; and

WHEREAS, the right-of-way has not been used by the City for the purpose for which it was dedicated or for any other use; and

WHEREAS, the Streets and Highways Code of the State of California §8333 provides that the legislative body of a local agency may summarily vacate a public service easement if the easement has not been used for the purpose for which it was dedicated or acquired for five consecutive years immediately preceding the proposed vacation and the easement has been superceded by relocation and there are no other public facilities located within the easement; and

WHEREAS, pursuant to the requirements of Government Code 927288.1, the name of the owner of the title or interest in the Property as it appears on the latest equalized assessment roll is:

Owner: Linda S. Bowman

WHEREAS, in accordance with Streets and Highways Code §8300 et seq., it is the desire of the City Council of the City of Lodi to vacate such street right-of-way; and

WHEREAS, the property within the proposed vacation is owned in fee by the City of Lodi and will not automatically revert to the adjacent property owner at 230 South Cherokee Lane upon vacation; and

WHEREAS, with the vacation of the surplus portion of the street easement, the building originally addressed in the 1987 agreement will no longer be within the street easement and the agreement is no longer necessary.

NOW, THEREFORE, BE IT RESOLVED by the Lodi City Council as follows:

1. That the street right-of-way located on the southerly portion of land at 230 South Cherokee Lane (as described in Attachment 1) be vacated; and

- 2. That from and after the date this resolution is recorded, such property will not longer constitute a street right-of-way; and
- **3.** That subject to the termination of the recorded agreement between the City of Lodi and Carmelo Teresi and Pamela Teresi dated April 14, 1987, the City of Lodi will transfer the vacated street easement to the Property owner, Linda S. Bowman; and
  - 4. That City Manager is authorized to execute the Termination Agreement.

Dated: December 15, 2010

I hereby certify that Resolution No. 2010-215 was passed and adopted by the City Council of the City of Lodi in a regular meeting held December 15, 2010, by the following vote:

AYES:

COUNCIL MEMBERS - Hansen, Mounce, Nakanishi, and

Mayor Johnson

NOES:

COUNCIL MEMBERS - None

ABSENT:

COUNCIL MEMBERS - Katzakian

ABSTAIN: COUNCIL MEMBERS - None

RANDI JOHL City Clerk

## LEGAL DESCRIPTION CITY ABANDONMENT

A portion of the Southwest Quarter of Section 6, T3N, R7E, MDB&M being more particularly described as follows:

Commencing at the southwest corner of said section, thence **\$** 87'16'30" E 260.15 feet along the South line of said section.

thence N2'09'40" W 41.64 feet, to the TRUE POINT OF BEGINNING:

thence continuing N 2'09'40" W 2.72 feet to the southwest corner of parcel "A" as recorded **Aug.** 8, 1977 in Book 4 of Parcel Maps at Page 190, **San Joaquin** County Records, and to **a** point **on a** curve having **a** radial of N 2'34'38" W;

thence along a curve to the right having a radius of 1460.00 feet, **a** chord bearing **S** 89'51'01" W, an arc of 2'17'59", and an arc length of 58.60 feet;

thence N 89'43'21" W 122.75 feet;

thence N 45'58'1 1" W 17.05 feet,

thence **S** 2'13' **E** 19.84 feet;

thence along a **curve** to the left having a **radius** of 20.00 feet, a chord bearing S 44'44'45" E, an arc of 35°21'09", and an arc length of 12.34 feet;

thence S 87°16'30" E 63.42 feet:

thence N 83'32'57" E 119.07 feet to the TRUE POINT OF BEGINNING.





#### **DECLARATION OF MAILING**

#### LETTER AND RESOLUTION TO SUMMARILY VACATE A SURPLUS PORTION OF LODI AVENUE LYING ADJACENT TO PARCEL LOCATED AT 230 SOUTH CHEROKEE LANE

On December 16, 2010, in the City of Lodi, San Joaquin County, California, I deposited in the United States mail, envelopes with first-class postage prepaid thereon, containing letter and resolution to summarily vacate a surplus portion of Lodi Avenue lying adjacent to parcel located at 230 South Cherokee Lane, attached hereto Marked Exhibit A. The mailing list for said matter is attached hereto, marked Exhibit B.

There is a regular daily communication by mail between the City of Lodi, California, and the places to which said envelopes were addressed.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 16, 2010, at Lodi, California.

ORDERED BY:

RANDI JOHL CITY CLERK, CITY OF LODI

ENNIFER M. ROBISON, CMC

ÁSSISTANŤ CITY CLERK

MARIA BECERRA ADMINISTRATIVE CLERK CITY COUNCIL

BOB JOHNSON, Mayor
JOANNE MOUNCE,
Mayor Pro Tempore
LARRY D. HANSEN
PHIL KATZAKIAN
ALAN NAKANISHI

## CITY OF LODI

CITY HALL, 221 WEST PINE STREET
P.O. BOX 3006
LODI, CALIFORNIA 95241-1910
(209) 333-6702 / FAX (209) 333-6807
www.lodi.gov cityclerk@lodi.gov

EXHIBITA

KONRADT BARTLAM
City Manager
RANDI JOHL, City Clerk
D. STEPHEN SCHWABAUER
City Attorney

December 16,2010

TO: Interested Parties

VACATION: TO SUMMARILY VACATE A SURPLUS PORTION OF LODI AVENUE LYING ADJACENT TO PARCEL LOCATED AT 230 SOUTH CHEROKEE LANE

This is to inform you that the City Council, at its regular meeting on December 15, 2010, considered the above matter and declared the area summarily vacated and abandoned.

Enclosed for your information is a certified copy of the recorded resolution along with a description of the abandoned area.

Should you have questions regarding the abandonment, please contact the Public Works Department at (209) 333-6706.

Randi Johl City Clerk

RJ/jmr

**Enclosure** 

cc: Public Works Department

#### **RESOLUTION NO. 2010-215**

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VACATING A SURPLUS PORTION OF LODI AVENUE
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WHEREAS, the Streets and Highways Code of the State of California §8333 provides that the legislative body of a local agency may summarily vacate a public service easement if the easement has not been used for the purpose for which it was dedicated or acquired for five consecutive years immediately preceding the proposed vacation and the easement has been superceded by relocation and there are no other public facilities located within the easement; and

WHEREAS, pursuant to the requirements of Government Code 927288.1, the name of the owner of the title or interest in the Property as it appears on the latest equalized assessment roll is:

Owner: Linda S. Bowman

WHEREAS, in accordance with Streets and Highways Code §8300 et seq., it is the desire of the City Council of the City of Lodi to vacate such street right-of-way; and

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NOW, THEREFORE, BE IT RESOLVED by the Lodi City Council as follows:

1. That the street right-of-way located on the southerly portion of land at 230 South Cherokee Lane (as described in Attachment I) be vacated; and

- That from and after the date this resolution is recorded, such property will 2. not longer constitute a street right-of-way; and
- That subject to the termination of the recorded agreement between the City of Lodi and Carmelo Teresi and Pamela Teresi dated April 14, 1987, the City of Lodi will transfer the vacated street easement to the Property owner, Linda S. Bowman; and
  - 4. That City Manager is authorized to execute the Termination Agreement.

Dated: December 15, 2010

\_\_\_\_\_\_

I hereby certify that Resolution No. 2010-215 was passed and adopted by the City Council of the City of Lodi in a regular meeting held December 15, 2010, by the following vote:

AYES:

COUNCIL MEMBERS - Hansen, Mounce, Nakanishi, and

Mayor Johnson

NOES:

COUNCIL MEMBERS - None

ABSENT:

COUNCIL MEMBERS - Katzakian

ABSTAIN: COUNCIL MEMBERS - None

City Clerk

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thence continuing N 2'09'40 W 2.72 feet to the southwest corner of parcel "A" as recorded Aug. 8, 1977 in **Book** 4 of Parcel Maps at Page 190, San Joaquin County Records, and to **a** point on a curve having a radial of N 2'34'38W;

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thence S 87°16′30"E 63.42 feet;

thence N 83'32'57" E 119.07 feet to the TRUE POINT OF BEGINNING.





#### VACATION / ABANDONMENT MAILING LIST

### **RESOLUTION OF INTENTION (Setting Public Hearing)**

Certified copy w/cover letter to:

Certified copies to:

PG&E

Denise Wiman, Public Works

12W. Pine Street Lodi, CA 95240

Wes Fujitani, Public Works

AT&T

Community Development Department

6505 Tam O Shanter Drive

Police Department

Fire Department

Stockton, CA 95210

AT&T California

Attn: Engineering/Public Works Dept.

2300 E. Eight Mile Road Stockton, CA 95210

Central Valley Waste Services

P.O. Box 241001 Lodi, CA 95241-9501

Chief Deputy County Surveyor

Attn: Joe Bussalacci 1810 E. Hazelton Avenue Stockton, CA 95205

# RESOLUTION OF VACATION (After Public Hearing)

#### Certified copy w/cover letter:

PG&E

AT&T

Pacific Bell

Central Valley Waste Services

Chief Deputy County Surveyor

Denise Wiman, Public Works

Wes Fujitani, Public Works

**Community Development Department** 

Police Department

Fire Department

Thomas Coleman 4200 Canyon Way Martinez, CA 94553

Linda Bowman P.O. Box 1742 Martinez, CA 94553-0742 CITY COUNCIL

BOB JOHNSON, Mayor JOANNE L. MOUNCE, Mayor Pro Tempore LARRY D. HANSEN PHIL KATZAKIAN ALAN NAKANISHI

## CITY OF LODI

#### PUBLIC WORKS DEPARTMENT

CITY HALL, 221 WEST PINE STREET
P.O. BOX 3006
LODI, CALIFORNIA 95241-1910
(209) 333-6706
FAX (209) 333-6710
EMAIL pwdept@lodi.gov
http:\\www.lodi.gov

December 9,2010

KONRADT BARTLAM
City Manager

RANDI JOHL

City Clerk

D. STEVEN SCHWABAUER
City Attorney

F. WALLY SANDELIN Public Works Director

Thomas Coleman 4200 Canyon Way Martinez, CA 94553

SUBJECT: Adopt Resolution of Vacation of Surplus Portion of Street Easement on

Lodi Avenue Adjacent to Parcel Located at 230 South Cherokee Lane (Jimboy's Tacos Building) and Authorizing City Manager to Execute

**Termination Agreement** 

Enclosed is a copy of background information on an item on the City Council agenda of Wednesday, December 15, 2010. The meeting will be held at 7 p.m. in the City Council Chamber, Carnegie Forum, 305 West Pine Street.

This item is on the consent calendar and is usually not'discussed unless a Council Member requests discussion. The public is given an opportunity to address items on the consent calendar at the appropriate time.

If you wish to write to the City Council, please address your letter to City Council, City of Lodi, P. O. Box 3006, Lodi, California, 95241-1910. Be sure to allow time for the mail. Or, you may hand-deliver the letter to City Hall, 221 West Pine Street.

If you wish to address the Council at the Council Meeting, be sure to fill out a speaker's card (available at the Carnegie Forum immediately prior to the start of the meeting) and give it to the City Clerk. If you have any questions about communicating with the Council, please contact Randi Johl, City Clerk, at (209) 333-6702.

If you have any questions about the item itself, please call Lyman Chang, Senior Civil Engineer, at (209) 333-6800, extension 2665.

F. Wally Sandelin

For: Public Works Director

FWS/pmf

Enclosure

cc: City Clerk